Sprint Exhibit 4.0

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

SPRINTCOM, INC., WIRELESSCO, L.P., NPCR, INC. D/B/A NEXTEL PARTNERS, AND NEXTEL WEST CORP.	)	
Petition for Arbitration, Pursuant to Section 252(b) of the Telecommunications Act of 1996, to Establish an Interconnection Agreement With	)	Docket No. 12-0550
Illinois Bell Telephone Company d/b/a Ameritech Illinois	/	

SprintCom, Inc., WirelessCo, L.P. through their agent Sprint Spectrum L.P., NPCR, Inc. d/b/a Nextel Partners and Nextel West Corp.

Supplemental Verified Written Statement

Of

James Burt

Filed February 12, 2013

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Introduction

Q. Please state your name and business address.

A. My name is James R. Burt. My business address is 6450 Sprint Parkway, Overland Park, Kansas 66251.

Q. Are you the same James R. Burt who submitted a Verified Written Statement in this matter on December 5, 2012?

A. Yes I am.

Q. What is the purpose of your Supplemental Verified Written Statement also referred to herein as my ("Rebuttal Testimony")?

A. The purpose of my Rebuttal Testimony is to respond to portions of the Direct Testimony of AT&T Illinois ("AT&T") witnesses Carl C. Albright, Jr., Patricia H. Pellerin, and William E. Greenlaw and Illinois Commerce Commission ("Commission") witnesses Dr. James Zolnierek, Dr. Qin Liu and Mr. A. Olusanjo Omoniyi. Specifically, I will respond to the testimony of these witnesses on the following list of disputed issues: 1, 11, 13, 18, 50, 51, 52, 53, 57, 58 and 60.

DPL Section I. Provisions Related to the Purpose and Scope of the Agreements

Issue 1 (DPL reference I.A.(1)): Should this Agreement preclude the exchange of Information Services traffic; or, require that traffic be exchanged in TDM format? (General Terms & Conditions Sections 3.11.2, 3.11.2.1, and 3.11.2.2)

Issue 11 (DPL reference II.A.(2)): Should terms and conditions regarding IP Interconnection be included in the Agreement? (Attachment 2 Sections 2.1.5.2)

Issue 18 (DPL reference II.B.(4)): How and where will IP POIs be established? (Attachment 2 Sections 2.2.1, 2.2.2)

Q. How is your testimony structured in response to Mr. Albright and Dr. Zolnierek's testimony?

A. I will first respond to Mr. Albright's testimony point by point. I will then respond to Dr. Zolnierek's testimony point by point and include a proposal that I believe addresses Dr. Zolnierek's concerns regarding Sprint's proposed terms and conditions.

Q. Before addressing Mr. Albright's testimony what are the key IP interconnection issues?

A. The key issues with respect to IP interconnection are 1) the Commission's authority to require AT&T to provide IP interconnection to Sprint in a Section 251/252 interconnection agreement, and 2) the ICA language that will provide for IP

interconnection to occur in a timely manner on terms and conditions that ensure the inherent benefits of IP interconnection.

Q. What are the key considerations for the Commission in deciding these issues?

A. The key considerations are 1) the fact that AT&T does have an IP network; 2) AT&T is attempting to shield its ILEC from any IP interconnection obligations by strategically placing certain equipment or functions within an affiliate; 3) AT&T is already interconnecting via IP, albeit with its affiliate; 4) the fact that AT&T is rapidly migrating its network to an all-IP network; 5) AT&T's stated intent of eliminating all regulatory obligations as a result of the migration to an all-IP network; 6) the FCC ordered good faith negotiations with the expectation that ILECs do so; and finally, 7) the public interest is best served when competing service providers interconnect in an efficient manner.

Q. After reading Mr. Albright's Direct Testimony, has your understanding of the disagreement between the parties changed?

A. No. Mr. Albright stated most succinctly on pages 4 and 5, starting at line 97 of his Direct Testimony that AT&T's bases for its arguments are that 1) IP Interconnection does not fall under Sections 251 and 252 of the Act and 2) that AT&T(the ILEC) has no IP-capable equipment with which Sprint can interconnect. That said, in its stated position on its version of the DPL, AT&T stated that it had no IP-capable equipment "at this time" that Sprint could connect to. It appears that AT&T's position has evolved such that it initially indicated on the DPL that it didn't have the

necessary equipment "at this time." Now, Mr. Albright seems to indicate that AT&T may never have the necessary equipment for IP Interconnection.

Q. In support of AT&T's argument that it does not have a section 251 obligation to provide IP interconnection, Mr. Albright includes footnote 1 on page 5 of his testimony. What is your response to Mr. Albright's statements?

A. Mr. Albright states that "IP-to-IP interconnection are 'information services' because they (1) would require a net protocol conversion[1] … and (2) would integrate voice calling with a variety of other functionalities…" First, there has been no determination by any regulatory authority that IP interconnection is an information service rendering Mr. Albright's characterization moot.

Second, his suggestion that there is a net protocol conversion is irrelevant. The relevant issue is whether Sprint is seeking to exchange telephone exchange service or exchange access service. The use of IP does not necessarily mean that a net protocol conversion has occurred – in fact, some traffic may remain in IP format from the beginning to the end of the call. Sprint seeks to use IP interconnection for all voice traffic exchanged between the parties, wireless on one end and VoIP or TDM wireline on the other end. An end-to-end net change in protocol does not hinge on the protocol used by AT&T and Sprint to *exchange* voice traffic. Such a suggestion

[1] Mr. Albright actually uses the term "conversation" in footnote 1. I believe he meant to say "conversion."

is contrary to a 2004 FCC order regarding Phone-to-Phone IP Telephony Service.[2] In this order, the FCC determined that use of the IP protocol in the middle of the call path does not make the service on the end an information service. If I understand Mr. Albright's testimony, he is trying to use the IP-in-the-middle argument to suggest an information service is being provided – that is just not the case.

Third, Mr. Albright's suggestion that using IP for interconnection purposes somehow "would integrate voice calling with a variety of other functionalities that allow end users to 'generate, acquire, store, transform, process, retrieve, utilize, or make available information via telecommunications'" is just not accurate. Neither AT&T's retail VoIP or TDM voice service or Sprint's wireless service will be changed due to the parties interconnecting via IP.

Q. Does AT&T explain why it does not want to provide IP interconnection, as opposed to why it shouldn't have to?

A. No. AT&T focuses its arguments as to why it shouldn't have to provide IP interconnection – it doesn't discuss why it won't. However, by refusing to provide IP interconnection, AT&T can continue to require its competitors to obtain/maintain a more costly (and inefficient) TDM-based interconnection facility architecture. TDM interconnection is more expensive and more cumbersome to manage than IP interconnection. AT&T's view of TDM interconnection involves numerous points

[2] In the Matter of Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony Services are Exempt from Access Charges, Order, WC Docket No. 02-361, FCC 04-97, April 21, 2004.

of interconnection which translate into additional expense for its competitors like Sprint that typically purchase these facilities from AT&T and the additional operational oversight necessary to manage this more complicated form of interconnection. It is obvious that fewer larger points of exchange between carriers would be less costly and easier to manage – for both carriers. I am not aware of anything to suggest that AT&T has any motivation to enable more efficient interconnection or to make things simpler for its competitors. I believe another reason why AT&T refuses to provide IP interconnection as part of a 251/252 agreement is that such IP Interconnection is inconsistent with its public advocacy that anything related to IP (as opposed to only retail services) should be deregulated. Having an IP interconnection obligation pursuant to 251/252 would threaten such an overarching AT&T strategy.

Q. On page 3, line 72, Mr. Albright states that Sprint isn't asking that IP interconnection be established when the new ICA goes into effect or at any particular time after that. Should the timing of any IP interconnection between the parties have an impact on the Commission's decision?

A. No. Sprint's proposed language recognizes that there will have to be a transition from the current TDM interconnection to IP interconnection. It would not be practical and is not necessary for Sprint to establish a date for when IP interconnection should take place. Sprint's language is intended to establish Sprint's right, as a requesting carrier, to IP interconnection as a technically feasible method of interconnection and allows for the parties to work through the timing, operational

and technical details. That being said, Sprint's language is intended to foreclose foot-dragging by AT&T after Sprint makes its request for IP interconnection.

Q. Is there any basis to require that there be a date-certain by which Sprint expects IP interconnection to occur?

A. No. Just like other rights afforded requesting carriers, there is no requirement that Sprint provide a date for when it will establish IP interconnection any more than a requesting carrier has to provide a date-certain for when it might purchase an unbundled network element or resell an ILEC's service. Sprint is in the process of transitioning its network in Illinois and across the U.S. Because Sprint does not have express contract language regarding IP interconnection today, it has no choice but to complete its network transition taking into account the current TDM interconnection scheme. If IP interconnection were available to Sprint, it could take advantage of it.

Q. You stated that AT&T has two arguments against including IP interconnection in the parties' ICA, please expand on AT&T's argument that it doesn't have any IP-capable equipment.

A. I believe the essence of AT&T's argument that it does not have any IP-capable equipment stems from its attempt to shield AT&T by utilizing its affiliate, AT&T Corp., to hold certain assets and perform certain functions. AT&T admits it is providing retail VoIP service, and it has stated publically that its networks' and third parties' networks are evolving to IP, yet it is also seeking to end regulation of the

PSTN.[3] The diagram AT&T provided in its response to Sprint discovery and attached to my Verified Written Statement as Exhibit JRB-1.7 shows that as between AT&T and its non-ILEC affiliate, AT&T Corp., some of the IP functionality that is necessary to make AT&T's VoIP retail service work is cordoned off into AT&T Corp. AT&T the ILEC is at the customer end, AT&T Corp. is in the middle and AT&T the ILEC is at the PSTN end. I believe that according to AT&T, the manner in which it has cordoned off certain assets and functionality means that it is not technically possible for Sprint to interconnect with AT&T via IP because it didn't leave any IP interconnection-capable assets or functionality within its ILEC entity.

Q. Mr. Albright states on page 4, line 88 that AT&T's network is a TDM network. How do you respond to that statement?

A. I have to disagree. I believe what Mr. Albright is saying is that regardless of the amount of IP equipment AT&T has deployed within its ILEC network, for the purpose of interconnection with Sprint, AT&T considers its ILEC network to be a TDM network. He makes this statement on page 4 and elsewhere in his Direct Testimony within the context of his discussion about what he means by IP-capable equipment. Again, my understanding of AT&T's position is that the IP equipment that AT&T has within its ILEC network is not exactly the type that it would use to interconnect with Sprint. Therefore, AT&T's network isn't an IP or IP-capable network, but is instead a TDM network. In actuality, AT&T's network is both an IP

[3] See Exhibit-1.5, AT&T FCC Petition to Launch a Proceeding Concerning TDM-to-IP Transition.

network and a TDM network. AT&T has both IP and TDM equipment and AT&T Corp. has both IP and TDM equipment. AT&T is attempting to craft its characterization of its network in support of its strategy of shielding some (but not all) of its IP assets in its AT&T Corp. affiliate. AT&T is playing this game of "hide-the-pea" in an attempt to avoid its ILEC 251/252 obligation to provide IP interconnection. The pea in this case is the placement of some (but not all) of the IP equipment and functionality (network elements) in AT&T Corp., notwithstanding that such network elements are essential to the ILEC being able to provide a service that enables communications between its IP customers and any non-IP customers served by any carrier, including AT&T itself.

Q. Based on the information provided by AT&T regarding how it provisions its retail VoIP service, could the ILEC provide its retail VoIP service without the IP voice management and TDM conversion functions being performed by its affiliate, AT&T Corp.?

A. No, I do not believe AT&T could provide its retail VoIP service without the functions that are being performed by AT&T Corp. On page 8 and 9, Mr. Albright describes some of the functionality required for AT&T's retail VoIP service. The IP functionality "in-the-middle" includes, according to Mr. Albright's testimony, "the necessary conversion and management of the data within the IP data stream, including any necessary conversion of the VoIP data stream to TDM format if that VoIP call is to be exchange with the PSTN. The VoIP network, consisting of routers and gateways, is part of AT&T Corp.'s network."

Q. As to what type of calls must AT&T apparently rely on AT&T Corp. to provide its customers telephone exchange service?

A. What is clear from AT&T's diagram and Mr. Albright's testimony is that for an AT&T retail VoIP customer to communicate with either an AT&T non-VoIP customer or, via the PSTN, with any third-party customer, it is necessary for the call to be handled by AT&T Corp. What is not immediately apparent is whether or not a call between two AT&T retail VoIP customers must also be handled by AT&T Corp. However, given Mr. Albright's description that AT&T Corp manages the VoIP data stream, it is reasonable to conclude that even a VoIP call between two AT&T retail VoIP customers must also be handled by AT&T Corp. The end result is that AT&T the ILEC cannot provide ubiquitous voice telephone service to its retail VoIP customers without using AT&T Corp.

Q. Why is it important whether AT&T's retail VoIP service can be provided without AT&T's reliance upon the functions performed by AT&T Corp.?

A. Whether AT&T's retail VoIP service can be provided without the functions of AT&T Corp. is important because it illustrates the pretext of AT&T's shield-the-ILEC strategy. AT&T Corp. has equipment and is performing functions that are necessary for AT&T's retail VoIP service to operate. AT&T has assigned certain equipment and certain functions to AT&T Corp. While I am not an attorney, and Sprint will address this aspect of AT&T's action in its legal briefs, it would appear to be improper on its face for AT&T to avoid its Interconnection obligations by placing

network elements in AT&T Corp. that are essential to, and in fact used by AT&T to provide, service to its customers. As to such network elements, AT&T Corp. is essentially the same as AT&T. In terms of AT&T's regulatory obligations, AT&T Corp. should be viewed as an extension of AT&T and AT&T's network.

Q. From the perspective of AT&T's retail customer's does it matter which legal entity within AT&T performs the necessary functions?

A. It does not matter to AT&T's retail customer which AT&T legal entity performs the necessary functions. While I don't know for certain, I would presume that AT&T's retail customers are not even aware that AT&T has divided up the various network functions between different legal entities. From their perspective, service is provided by AT&T. I presume that the only entity that bills the retail VoIP customers is AT&T the ILEC. The cost of the equipment and functions performed by AT&T Corp. are presumably included in the retail rate charged by AT&T.

Q. Has the FCC spoken on the issue of ILECs attempting to evade obligations through the use of affiliates?

A. Yes. The FCC in its Further Notice of Proposed Rulemaking ("FNPRM") on IP-to-IP interconnection at paragraph 1388 of the CAF Order stated:

> 1388. "In addition, the record reveals that today, some incumbent LECs are offering IP services through affiliates. Some commenters contend that incumbent LECs are doing so simply in an effort to evade the application of incumbent LEC specific legal requirements on those facilities and services, and we would be concerned if that were the case."

Q. How does the FCC's statement regarding the use of affiliates by ILECs to avoid regulatory obligations apply to AT&T's use of AT&T Corp. to provide IP services?

A. Paragraph 1388 discusses the offering of IP services through an affiliate. The manner in which AT&T retail VoIP service is provided via two affiliates is slightly different, but the result is the same. AT&T the ILEC is offering the retail VoIP service, but has used an affiliate to perform certain necessary functions for the purpose of avoiding an ILEC obligation. The intent of what the FCC said in paragraph 1388 is applicable here.

Q. Is there any regulatory precedent that supports Sprint's position that AT&T's affiliate shielding strategy is not valid?

A. I will leave the legal discussion to Sprint's legal briefs, but there is precedent upon which the FCC based its statement and further conclusions in paragraph 1388.[4]

Q. Do you agree that AT&T's separate affiliate strategy should be condoned?

A. No. The issue of IP interconnection is a matter of law and policy. Such an important issue should not rely on which legal entity owns a particular piece of equipment or performs a particular function when such ownership is 100% within the control of AT&T and decided for the purpose of avoiding regulation.

[4] *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663 (2011) ("CAF Order"), paragraph 1388 and associated footnotes 2530-2535.

Q. What else should the Commission be looking at as it decides the issue of IP Interconnection?

A. In addition to seeing through AT&T's attempt to shield itself from its 251/252 obligations, I ask the Commission to look at the fact that AT&T has IP interconnection with another entity, albeit an affiliate, AT&T Corp. If AT&T is interconnecting via IP with another company, AT&T Corp., that is an independent basis upon which it can also be required to provide IP interconnection to Sprint. 47 C. F. R. § 51.305 of the FCC's rules does not allow for AT&T to discriminate against Sprint as AT&T's interconnection with its affiliate is evidence of a "previous successful interconnection." If AT&T is performing a particular function, IP interconnection, with an affiliate, it is required to perform that function with Sprint.

Q. Describe where AT&T has IP interconnection with AT&T Corp.

A. Exhibit JRB-1.7 attached to my Verified Written Statement is AT&T's diagram of how it provides retail VoIP service. Across the top of the diagram is a horizontal line that identifies the AT&T affiliate ownership of the various network elements illustrated below the line. The demarcation between AT&T and AT&T Corp. is towards the right side of the diagram segmenting the IP data stream between the VHO and AT&T Corp. cloud and box. Mr. Albright describes this on pages 8 and 9 beginning on line 205. The IP data steam on the AT&T network connects in IP-to-IP format with the network equipment of AT&T Corp. This is IP interconnection between AT&T the ILEC and AT&T Corp. I say this in spite of Mr. Albright's

Direct Testimony on page 11 and 12 beginning at line 282 suggesting that AT&T doesn't provide IP interconnection to any carrier, including its affiliates.

Q. Is it this point in AT&T's ILEC network that AT&T claims is not IP-capable?

A. Yes, I believe so. It is interesting that Mr. Albright's Direct Testimony on page 8 at line 197 asks the same question. He answers that AT&T does not have an IP-capable "network." Interestingly, he never states that AT&T does not interconnect in an IP-to-IP format. As I've discussed above, AT&T already interconnects in an IP-to-IP format with its affiliate, AT&T Corp. Rather, Mr. Albright bases his no answer on how AT&T and AT&T Corp. have ensured that, in their opinion, there is no point on AT&T's ILEC network or no piece of equipment owned by AT&T the ILEC that is capable of IP interconnection. On page 10, line 252, Mr. Albright states that "AT&T Illinois could do that." "That" refers to AT&T Illinois establishing an IP network so that Sprint can interconnect with AT&T Illinois on an IP basis.

Q. Does Sprint think it can interconnect with AT&T at the same point in the network where AT&T Corp. has IP interconnection with AT&T?

A. Sprint does not know, but Sprint believes that the functionality necessary to actually implement IP interconnection for the mutual exchange of traffic in IP format is held by AT&T Corp. In light of AT&T's game of hide-the-pea and because that is an implementation question, I don't think it is the determining factor in whether AT&T is obligated to provide IP interconnection. As I've said, AT&T's network design is very purposeful - with the intent of giving AT&T an argument that it is not

technically feasible for it to interconnect with Sprint. I'm certain regardless of the equipment AT&T has or the equipment Sprint has, AT&T would say they are not compatible.

Q. Related to the previous discussion, on page 10 and 11, beginning at line 252, Mr. Albright states and explains why Sprint cannot demand AT&T to establish an IP network that Sprint can interconnect to. How do you respond?

A. Sprint is not asking AT&T to perform a function that does not exist within the corporate structure of AT&T. Sprint is asking the Commission to prevent AT&T from evading its 251/252 Interconnection obligations by claiming it does not have the capability of exchanging traffic in IP format with Sprint while at the same time exchanging traffic in IP format with AT&T Corp. To be clear, Sprint argues that AT&T has extended its ILEC network to include that which is provided by AT&T Corp. so that AT&T the ILEC can serve its own customers. In addition, Mr. Albright's admission that the Eighth Circuit decision that he cites does not technically apply to interconnection is correct. The standards for interconnection are different than the standards for access to unbundled network elements.[5] It would not be appropriate for the Commission to apply the Eighth Circuit unbundled network element ("UNE") standard to interconnection.

[5] See 47 C.F.R. § 51.307(b). The duty to provide access to unbundled network elements pursuant to section 251(c)(3) of the Act includes a duty to provide a connection to an unbundled network element independent of any duty to provide interconnection pursuant to this part and section 251(c)(2) of the Act.

Q. Please explain why you believe the Commission should consider the fact that AT&T is migrating its network to an all IP network when deciding the IP interconnection issue.

A. There are two reasons the Commission should consider the fact that AT&T is migrating its network to an all IP network as illustrated in Exhibits JRB-1.5 and JRB-1.6 attached to my Verified Written Statement. The first reason why this is important is because regardless of the technology enhancements AT&T is making within its network, it is still attempting to force Sprint to use a dumbed-down version of its network for interconnection – the TDM part. Second, the Commission should take note of AT&T's overarching strategy to avoid all forms of regulation once its network is all IP. It is reasonable to anticipate that as its network evolves, AT&T will segregate its network into the regulated portion and the unregulated portion in an attempt to only expose to regulation the TDM portion (exactly what it is attempting to do here regarding IP Interconnection). Thereafter, AT&T's IP network will be unregulated and only available to interconnect with on commercial terms that are not subject to Commission oversight.

Q. On pages 12 -13 beginning on line 308, Mr. Albright suggests that the FCC's CAF Order at paragraph 1011 regarding IP interconnection does not have any effect because the FCC sought additional input in its Further Notice of Proposed Rulemaking ("FNPRM") regarding IP interconnection. How do you respond?

A. Mr. Albright seems to be suggesting that even though 1) the FCC ordered good faith negotiations for IP interconnection that are to result in carriers actually interconnecting via IP and 2) he states that the FCC believes it has the authority to order such interconnection, the Commission still can't enforce the FCC's order in this arbitration. I disagree with Mr. Albright's conclusion. I do agree with him that the FCC issued the IP interconnection order because it believed it had the authority to do so. The FCC does not issue an order unless, like Mr. Albright admits, it has the authority to do so. Since interconnection is a section 251 obligation, it is reasonable to conclude the FCC authority referred to by Mr. Albright is, at least in part, grounded in section 251. This conclusion is supported by the FCC's statement in the order at paragraph 1011 where it says,

> "The duty to negotiate in good faith has been a longstanding element of interconnection requirements under the Communications Act and does not depend upon the network technology underlying the interconnection, whether TDM, IP, or otherwise.

The FCC repeats this in the FNPRM at paragraph 1342 where it says,

> "We also seek comment on proposals to require IP-to-IP interconnection in particular circumstances under different policy frameworks. In this regard, we observe that section 251 of the Act is one of the key provisions specifying interconnection requirements, and that its interconnection requirements are technology neutral – they do not vary based on whether one or both of the interconnecting providers is using TDM, IP, or another technology in their underlying networks."

Finally, the order includes at paragraph 1011 this phrase with respect to the FNPRM,

> "In particular, even while our FNPRM is pending, we expect all carriers to negotiate in good faith in response to request for IP-to-IP interconnection for the exchange of voice traffic."

In my opinion, the FCC's authority is based, at least in part, on the interconnection obligations of Section 251 which, coupled with Section 252, gives the Commission the authority to order IP interconnection in an arbitration proceeding such as this one.

Q. Even though the FCC recognized that requesting carriers are entitled to IP interconnection, can you explain why it also issued the FNPRM on IP interconnection?

A. I believe that the FCC issued the FNPRM to continue to build the record on IP interconnection so that it can 1) identify additional sources of authority, and 2) to determine how it can use its existing and any additional authority to further encourage efficient IP interconnection.[6]

Q. What is your main point regarding the fact that the FCC recognized that requesting carriers are entitled to IP interconnection and issued a FNPRM at the same time?

A. My main point is that FNPRM should not be interpreted in a manner that ignores or sidesteps the fact that the FCC recognized that interconnection is technology-neutral and IP Interconnection is available to requesting carriers.

[6] CAF Order, para. 1335.

Q. On page 14 beginning at line 339, Mr. Albright suggests that a June 30, 2011 petition filed by TW Telecom Inc. supports the notion that the FCC doesn't have jurisdiction over IP interconnection. What is your response to this statement by Mr. Albright?

A. As I understand the petition by TW Telecom as summarized by Mr. Albright, TW Telecom was seeking a declaratory ruling as to whether IP Interconnection is available under Section 251. That being said, the petition was filed in June of 2011, more than four months before the FCC's CAF Order recognizing IP Interconnection. Since the filing of the TW Telecom petition, as I noted in my Verified Statement, there have been two state commissions (Ohio and Puerto Rico) that have found that requesting carriers are entitled to IP Interconnection under Section 251; and, as previously discussed, in the CAF Order, the FCC recognized that Section 251 is one of several provisions under the Act that support a right to obtain IP Interconnection.

Q. On page 14 beginning at line 362, Mr. Albright states that it would be a mistake for the Commission try to anticipate what the FCC is going to decide. Is AT&T consistent regarding FCC further notice issues?

A. No. In response to carriers in New York requesting to delay commission action on originating access rates that AT&T pays to incumbent LECs, AT&T urged the state commission not to wait for FCC action on its FNPRM related to originating access rates. Rather, AT&T urged the New York PSC to move forward citing the public interest benefits of reducing switched access rates and argued to the New York PSC to "flatly reject these blatantly self-serving, hypocritical wait and see arguments..." I

have attached AT&T's Statement in Opposition to Phase III Joint Proposal, Case 09-M-0527, New York Public Service Commission, page 11 (January 4, 2013) as JRB-4.1.

Q. Would the public interest be served if Mr. Albright's arguments are accepted by the Commission?

A. No. It should be indisputable that IP interconnection is more efficient and that efficiency among service providers is in the public interest. If the Commission accepts Mr. Albright's arguments and does not require AT&T to provide IP Interconnection to Sprint, both carriers will be required to continue to utilize the less efficient and more expensive TDM interconnection.

Q. On pages 15-18 beginning on line 365, Mr. Albright provides his opinion to how the Commission should address Sprint's proposed language. Do you have any comments regarding Mr. Albright's suggestions?

A. Yes. While I do not agree with any of Mr. Albright's suggestions, I would like to respond to two of the suggestions. First, is in reference to AT&T proposed language in General Terms and Conditions Section ("GTC") 3.11.2.2 that states, "All traffic that Sprint delivers to AT&T Illinois pursuant to this Agreement will be delivered in TDM format." Mr. Albright claims that Sprint does not oppose that sentence.

While it is true that Sprint does not necessarily object to that sentence, as long as the sentence is qualified by including Sprint's proposed sentence, "Notwithstanding the

foregoing, when the Parties utilize IP Interconnection, this Agreement may be used to exchange traffic in IP format." Read together, the two sentences would appear as follows, to make it clear that the agreement contemplates eventual IP Interconnection and until that time, traffic is exchanged in TDM format: "All traffic that Sprint delivers to AT&T Illinois pursuant to this Agreement will be delivered in TDM format. Notwithstanding the foregoing, when the Parties utilize IP Interconnection, this Agreement may be used to exchange traffic in IP format." However, later in my testimony, I address Dr. Zolnierek's recommendations regarding a potential resolution of the IP Interconnection issue – and I propose further alternative language in that discussion. If Sprint's alternative proposed language below is accepted to implement Dr. Zolnierek's recommendations, then the language discussed above would be replaced with the later proposed language.

Second, Mr. Albright misinterprets Sprint's IP POI language in Attachment 2, Section 2.2.2 to mean that Sprint is limiting the IP POIs to the stated locations. That's not what Sprint's proposed language says. Sprint did identify several locations where the parties are exchanging IP data traffic today because they would be the logical and cost efficient locations based on Sprint's experience with others with which Sprint exchanges voice traffic via IP. However, Sprint's language clearly states that in addition to those locations, the parties could interconnect at "such additional IP POIs as may be mutually agreed." Since one of the suggested locations is Chicago, IL, it would appear to be a logical location for an IP POI because it is within AT&T's exchange territory.

Q. Turning to Dr. Zolnierek's Direct Testimony on page 6-8 beginning at line 82, Dr. Zolnierek discusses which party would be responsible for IP-to-TDM or TDM-to-IP conversion. Do you have anything to add?

A. Yes. Generally, I don't disagree with Dr. Zolnierek's assessment of which party performs the protocol conversion. However, I would note that, today, AT&T must make a protocol conversion 100% of the time when its retail VoIP customers talk to its TDM customers. I make this point because AT&T has accepted this necessity and the associated costs. So, when Sprint and AT&T connect via IP, AT&T will not have to perform a protocol conversion for any of its current or growing number of retail VoIP customers.

Q. On page 7 beginning at line 95, Dr. Zolnierek addresses the situation when both parties are using TDM format. Is this a realistic scenario?

A. Not any longer. First, AT&T provides both TDM and VoIP service to its customers today. AT&T is currently and will always be required to convert some of its traffic (the VoIP customer traffic) to TDM when the parties interconnect via TDM. Second, Sprint's wireless network is being converted to an all IP core, so Sprint would have to convert 100% of its traffic to TDM if TDM interconnection is continued. It is hard to determine the actual percentage of TDM customer traffic AT&T would have to convert to IP because the calling scenarios cannot be quantified. It certainly would not be 100% of its TDM customer traffic since AT&T is already required to convert this traffic to IP when any of AT&T's TDM customers

calls an AT&T VoIP customer. Put another way, AT&T has the potential of having to convert traffic to IP for every one of its TDM customers to support a call to an AT&T VoIP customer.

Q. Should the Commission make its determination based on quantity of traffic either party may have to convert from one protocol to another?

A. No. Although, as I stated above, AT&T has an increasing requirement to convert its TDM traffic to IP just for its own customer base,[7] this issue is about more than how much traffic must be converted between protocols. This issue should be decided, at a minimum, on 1) whether there is an inherent obligation to interconnect via IP subject to sections 251 and 252, 2) the fact that AT&T is attempting to hide from its obligations by using an affiliate to perform necessary functions to provide IP service to its VoIP customers, 3) whether AT&T is discriminating against Sprint because it already has IP interconnection with that same affiliate and 4) whether it is consistent with good policy, the public interest and the facts in this case to allow AT&T to continue to delay the inevitable any longer.

Q. On page 7 beginning at line 109, Dr. Zolnierek says it isn't clear which party would be responsible for performing the protocol conversion when one party is using IP format and the other is using TDM format. Can you clarify Sprint's position?

[7] See Exhibit-1.5, AT&T FCC Petition to Launch a Proceeding Concerning TDM-to-IP Transition.

A. It is Sprint's position that when the parties interconnect via IP, then both parties would be responsible for converting any remaining TDM traffic to IP prior to exchanging traffic with the other party. Sprint does not intend for the parties to maintain two interconnection networks, one IP and the other TDM. Maintaining two interconnection networks would make interconnection more complicated and more expensive - both of which are contrary to Sprint's intended purpose for moving to IP interconnection. It's important to remember that both parties are migrating to IP – in fact, the entire industry is migrating to IP. Also, as stated previously, AT&T must already perform this conversion for its TDM customers when they call AT&T's own VoIP customers and vice-versa. In terms of which carrier must make a conversion to IP, it is whether AT&T must convert some, but not all, of its traffic to IP (traffic from its remaining TDM customers) prior to interconnecting via IP or whether Sprint has to convert all of its IP traffic to TDM to the extent TDM interconnection continues to be used.

Q. On page 9 beginning at line 147, Dr. Zolnierek states that Sprint and AT&T shouldn't exchange all traffic via TDM. How do you respond?

A. I agree in principle with what Dr. Zolnierek is saying. It appears he sees the benefit of exchanging traffic via IP since both parties use or will use IP within their respective networks. It is important to restate that Sprint's intent is that all traffic exchanged between the parties be exchanged via the IP interconnection. There could certainly be a period of time where both TDM and IP interconnection are utilized

during the transition, but that is a technical/operational issue the parties will address once the rights and obligations to interconnect via IP are decided in this arbitration.

Q. On page 10 beginning at line 160, Dr. Zolnierek states that the Commission should not require AT&T to interconnect with Sprint in IP format at this time. How do you respond?

A. My understanding of Dr. Zolnierek's testimony is that he believes the Commission should require IP interconnection and that the Commission should oversee the final terms and conditions, but "not at this time". I believe the basis for his "not at this time" qualification is his belief that the terms and conditions have not been adequately defined in such a manner that the Commission can determine whether they are acceptable. Dr. Zolnierek does say that language should be included that would allow Sprint or AT&T to develop IP interconnection language that could be taken to the Commission for inclusion.

Q. Dr. Zolnierek, on page 16 beginning on line 310, makes similar comments as he does on page 10, but goes a little further. Please comment.

A. Although Dr. Zolnierek states that the Commission should not require IP interconnection "at this time", he goes on to say that his recommendation does not imply that IP Interconnection is outside the Commission's Section 251/252 jurisdiction. Of course, Sprint is in agreement that the Commission has authority to arbitrate and resolve this disputed issue. As an alternative to Sprint's original proposed IP Interconnection terms and conditions, at the end of this section, Sprint

will propose alternative language that is responsive to Dr. Zolnierek's recommendations.

Q. Please provide further clarification of the IP interconnection language Sprint proposed and identified with its original arbitration filing.

A. Sprint's intent is to include in the ICA the essential terms and conditions that addresses the unique issues related to IP interconnection. These issues include: 1) the explicit right for Sprint to request IP interconnection, 2) where the parties exchange traffic (IP POI), 3) the parties' responsibilities getting its own traffic to the IP POI and 4) the compensation of the traffic being exchanged. In the same manner that the ICA does not address detailed technical and operational issue relative to TDM interconnection, the ICA need not address the detailed technical and operational issues related to IP interconnection. This being said, Sprint is open to considering modification to its proposed terms or the addition of terms necessary to address issues unique to IP interconnection.

The IP interconnection terms included below address the issues unique to IP interconnection as I have defined them in the previous paragraph. The exception is compensation for the traffic being exchanged via an IP interconnection. It is Sprint's opinion that traffic usage compensation is separate and distinct from the manner or the technology used for interconnection to exchange such traffic. That being said, it is Sprint's position in this arbitration that the compensation for traffic usage exchanged via IP would be the same as the compensation for traffic usage exchanged

via a TDM interconnection. Compensation for traffic usage is the subject of other separate and distinct issues in this arbitration.

The first issue unique to IP interconnection is that it is Sprint's right to request IP interconnection. The language in Attachment 2, 2.1.6.2 states that "When Sprint designates IP interconnection…" This language supports Sprint's right to exercise the option of IP interconnection. At such time, the parties will work out the details.

The second issue unique to IP interconnection is the location of the IP POIs. IP POIs are addressed by Attachment 2, 2.2.2. Sprint's proposed language recognizes the fact that AT&T and Sprint are already exchanging data traffic and that these locations would be the natural locations for the exchange of voice traffic via IP interconnection. That said, the language does not limit the IP POIs to those identified. It includes the additional phrase, "or such additional IP POIs as may be mutually agreed." This phrase opens to the door to IP POIs separate from where the Parties are currently exchanging IP data traffic. For example, if the IP equipment that AT&T has cordoned off and placed in AT&T Corp. is not at the same location where the Parties currently exchange IP data traffic and the AT&T Corp. equipment is not otherwise interconnected at the IP data location, the location of the AT&T Corp. equipment may be the technically feasible place for the IP POI instead of the IP data location..

The third issue unique to IP interconnection relates to how the Parties get their voice traffic to the IP POI(s). While getting into some level of detail, the language in Attachment 2, 2.2.2 states that each Party is responsible for delivering its traffic to the IP POI.

> Attachment 2:
>
> 2.1.6.2 Sprint and AT&T ILLINOIS will interconnect directly using IP Interconnection Facilities to exchange Authorized Services traffic where the Parties exchange IP data traffic. When Sprint designates IP Interconnection in accordance with this Agreement, the Parties will engage in operational discussions to establish IP Interconnection in an expeditious manner.
>
> 2.2.1 Except where the Parties utilize IP Interconnection the location of the POI(s) will be as follows:
>
> 2.2.2 When Sprint designates IP Interconnection and the Parties utilize IP Interconnection, Sprint and ATT ILLINOIS will exchange Authorized Services traffic at the existing internet exchange points ("IXP" or "IP POI"), where they are currently interconnected (e.g., Los Angeles, San Jose, Seattle, Chicago, Dallas, D.C. Metro, Miami, New York City, and or Atlanta) or such additional IP POIs as may be mutually agreed. Where the Parties utilize IP Interconnection, each Party is responsible for the cost of establishing IP connection from its network to the IP POI, including any TDM-IP media gateway conversions, ports on its network edge router, port charges on the carrier hotel Ethernet switch and any carrier hotel fees for its collocated equipment or any IP transit costs associated with reaching the IP POI.

Q. More specifically, Dr. Zolnierek states on page 11 beginning at line 200, that his proposal is consistent with the proposals of both parties. Do you agree?

A. Not entirely. Sprint wants adequate terms and conditions in the ICA now and wants the Commission to weigh in on the proposed terms. As explained above, Sprint feels that the terms it proposed are adequate to address IP interconnection at the level of detail that is typically included in an interconnection agreement. In the alternative,

Sprint has proposed language that it feels is consistent with Dr. Zolnierek's proposal to open the door for Sprint to pursue IP interconnection with AT&T with the Commission providing the regulatory backstop in the event the Parties cannot agree on language. At this point in Dr. Zolnierek's testimony he also discusses that the Parties will initially be using TDM interconnection. The Parties certainly are using TDM interconnection now and will until such time as it is replaced with IP interconnection – with the necessary transitional period.

Q. On page 12 beginning at line 205, Dr. Zolnierek discusses Sprint's potential IP POI locations. Please explain why Sprint chose those locations.

A. Sprint chose the locations identified in its proposed language because these are carrier hotels where the Parties are already exchanging large volumes of IP data traffic. These locations or Internet Exchange Points ("IXPs") are the natural locations for where the Parties would exchange voice traffic when using IP interconnection. Sprint and AT&T have facilities to these locations (and which are typically within AT&T's territory), the locations are highly secure and resilient, and are the locations where Sprint exchanges voice traffic with other service providers when using IP interconnection. There are several carrier hotel locations such as these across the U.S. where Internet service providers such as Sprint and AT&T exchange Internet data traffic. I refer to these locations as the "natural" locations to exchange voice traffic because they were determined and designed by engineers and technicians interested in efficient traffic exchange and mutually beneficial to interconnecting service providers. As is evidenced by other issues in this

proceeding, when there are motives that go beyond efficiency (i.e., enhancing AT&T revenue and, at the same time, making interconnection more burdensome for its competitors) AT&T expects Sprint to use numerous locations within the state of Illinois to exchange a relatively small volumes of voice traffic as compared to the large volumes of IP data traffic exchanged at the few IXPs. Purely from an efficiency perspective, it does not make sense for Sprint and AT&T to exchange small volumes of voice traffic at dozens of locations when you consider they are exchanging magnitudes more IP traffic at only a handful of locations.

Q. Is it technically feasible to use the IP POIs identified by Sprint to exchange voice traffic via an IP interconnection?

A. Yes. From a technical perspective, it is feasible to exchange voice traffic that is delivered in IP format via an IP interconnection virtually anywhere the two parties can connect their networks. Again, the locations identified in Sprint's proposal were existing locations where the Parties are already exchanging IP data traffic.

Q. On page 12 and 13 beginning at line 225, Dr. Zolnierek states that Sprint's IP POIs do not appear to be designed around Section 251(c)(2). Please respond.

A. I believe Dr. Zolnierek is referring to the fact that some of the IP POIs identified are not in AT&T territory within the state of Illinois. While that observation is accurate, Sprint is not limiting or demanding that the IP POIs be outside the state of Illinois. Sprint is recognizing that the Parties already exchange traffic in these locations and that it would make engineering sense to consider them for voice traffic exchange

when using IP interconnection. Sprint's language certainly accommodates IP POIs within the state. The ideal situation would be to have the engineers decide the locations rather than attorneys and accountants. I believe that efficiency can be achieved once AT&T's financial motivation to continue to insist upon TDM interconnection and otherwise forestall any recognition of even the most basic IP interconnection terms and conditions is removed from the equation.

Q. On page 17 beginning at line 331, Dr. Zolnierek questions whether IP interconnection is more efficient. Please explain Sprint's view of this issue.

A. IP interconnection in the manner proposed by Sprint is more efficient. First, there is no question that the Internet protocol is a more efficient protocol than TDM. TDM requires that a DS0 circuit be dedicated to each and every telephone conversation exchanged between the Parties for the entire duration of the conversation regardless of whether or not there is any voice exchange taking place 100% of the time. The IP protocol does not require this dedicated circuit. Instead, it codes and fills packets of actual voice being exchanged for numerous individual voice calls and places them more efficiently on the circuit connecting the Parties.

Second, as I stated previously, having fewer points of interconnection is more efficient from a traffic exchange perspective when you eliminate AT&T's financial incentive to maintain dozens of POIs. Sprint currently maintains over 70 individual

TDM POIs in Illinois for the exchange of wireless voice traffic.[8] Virtually all of the foregoing POIs and associated expenses can be eliminated by transitioning to IP interconnection at 1-2 IP POIs. As long as AT&T is permitted to maintain outdated TDM architecture where it requires Sprint to maintain unnecessary facilities (with considerable revenue to AT&T), AT&T will never be incented to exchange traffic on an IP basis.

As for the protocol conversion issue mentioned by Dr. Zolnierek, the world is changing to IP, Sprint is changing to IP, and AT&T is changing to IP. In fact, AT&T is arguing before the FCC to entirely do away with the old TDM network because it is being replaced with an all IP network. The real differences between Sprint and AT&T with respect to IP interconnection is one of timing and rules. Sprint wants the right to request IP interconnection now and with a regulatory backstop, whereas AT&T wants it on its own timing on a "commercial" basis which means on terms and conditions it dictates without any regulatory backstop. The issue of protocol conversion is a distraction from the real issues and should not dissuade the Commission from acting now. In addition, as I stated previously, AT&T is performing protocol conversions today – it is simply hiding the equipment that is used to perform such conversion in its AT&T Corp. affiliate.

[8] The number of POIs is not to be confused with the volume of individual circuits connecting these POIs which is far greater than the number of POIs.

Q. On pages 20 and 21, where Dr. Zolnierek disagrees with Mr. Albright's testimony suggesting that AT&T doesn't have an IP network to which Sprint can interconnect, please expand on that point.

A. I agree with Dr. Zolnierek's conclusion that AT&T has an IP network and it is connecting to its affiliate via IP. I feel compelled to add to that conclusion because I am certain AT&T will disagree on technical grounds. As I stated before, the Commission should consider the larger picture when it considers whether AT&T's IP interconnection with AT&T Corp. is a basis to require AT&T to interconnect with Sprint via IP because AT&T will presumably continue its argument that the particular type of interconnection that exists between AT&T and AT&T Corp. wouldn't work for Sprint. Sprint anticipates this will be AT&T's position as long as AT&T is drawing the lines within its IP network regarding which entity owns which piece of equipment and which entity performs any particular function – even regardless of whether or not that equipment/function is still essential to the ILEC serving its own customers. It is reasonable to believe that AT&T has been very purposeful in how it has drawn the lines because it no doubt anticipated there would be a time when it would be challenged. It has no other choice but provide IP services to remain competitive, so it has to creatively draw lines between assets and functions to salvage any regulatory argument that is designed to protect AT&T the ILEC from being subject to any form of IP Interconnection regulatory oversight.

Q. Are there ramifications of AT&T's attempt to shield certain functions and/or assets in an affiliate that stretch beyond the IP interconnection issue?

A. Yes. If AT&T establishes a precedent of being able to place a new asset or function or even transfer an existing asset or function to an affiliate to avoid a regulatory obligation, it could do so with other assets or functions as well. Imagine if it decided to place all loop assets, e.g., fiber to the home, within AT&T Corp. to avoid loop unbundling obligations. Or, what if it decided to build a new end office or tandem and place those assets in AT&T Corp. and route its voice traffic through these new AT&T Corp. assets rather than the old AT&T ILEC assets to avoid local interconnection obligations. If AT&T's creative approach with IP assets is successful, one can only imagine the creative ways AT&T will attempt to avoid regulation.[9]

Q. Why is it good policy to begin utilizing IP interconnection?

A. The migration of interconnection to IP is good policy. IP interconnection is more efficient thereby reducing costs to service providers and allowing those same dollars to be spent on new or improved products and services which is in the public interest, i.e., good policy. This is supported by the FCC in its Further Notice of Proposed Rulemaking ("FNPRM") on IP-to-IP interconnection at paragraph 1360. The FCC stated:

> 1360. "At a minimum, we believe that any action the Commission adopts in response to this FNPRM should affirmatively encourage the transition to IP-to-IP interconnection where it increases overall efficiency for providers to interconnect in this manner."

[9] AT&T is seeking total deregulation of its ILEC through legislative initiatives in multiple states. In addition, Exhibit JRB-1.5 to my Verified Written Statement shows the extent to which AT&T is pursuing deregulation via the FCC.

Q. Does the Telecom Act and the FCC's interpretation of the applicable federal laws and rules contemplate IP interconnection?

A. Sprint believes that the Act and the FCC's interpretation of the Act contemplates IP interconnection. And, Sprint is asking the Commission to agree. The Act is 16 years old and was written by politicians to transform the communications industry by enabling competitive voice offerings for the betterment of U.S. citizens and the country as a whole. The authors of the Act certainly did not exclude IP interconnection. I would suggest quite the opposite. If IP interconnection is consistent with the desired transformation of the communications industry, then I would suggest it is included. The FCC, the federal agency charged with the timely and effective implementation of the Act, agrees. As I cited in my Verified Written Statement on page 25, lines 563-566, network technology is not the determining factor with respect to an ILEC's obligations. The technical distinction suggested by AT&T doesn't exist. Time passes, technology changes and an ILEC's obligations continue.

Q. How should the Commission resolve Issues 1, 11 and 18?

A. Sprint is asking the Commission to: 1) affirm its jurisdiction over IP interconnection, and 2) include Sprint's proposed IP interconnection terms because it addresses all the necessary terms and conditions necessary for IP interconnection in Attachment 2, Sections 2.2.1 and 2.2.2. If the Commission finds that additional details are needed to effectuate IP to IP interconnection terms and conditions, Sprint is willing to address those issues. If the Commission adopts Dr. Zolnierek's recommendation to

affirm the Commission's authority over IP to IP interconnection but defer a decision on the terms and conditions to effectuate IP to IP interconnection, the Commission should adopt Sprint's alternative language provided below in Section 3.11.2., 3.11.2.1 and 3.11.2.2.

Sprint's alternative language would preclude AT&T from continuing to dodge its 251/252 obligations regarding IP Interconnection. Sprint's alternative proposed language is as follows:

> 3.11.2.2 Subject to Section 3.11.2.2.1 and 3.11.2.2.2, traffic delivered by one Party to the other over Interconnection Facilities established pursuant to this Agreement will be delivered in TDM format.
>
> 3.11.2.2.1 After the Effective Date, Sprint may develop and propose to the other, language prescribing any additional rates, terms, and conditions as may be necessary for the implementation of voice IP-to-IP Interconnection under this Agreement, including such provisions as may be necessary to transition from voice TDM-to-TDM Interconnection (an "IP Interconnection Proposal"). If, after Sprint makes such a proposal, the Parties do not agree on an amendment, the proposing Party may seek resolution of the matter by petitioning the Commission pursuant to Sections 251/252 of the Act to include its proposed language in the Agreement, and the Commission shall be the forum for resolution of such petition.
>
> 3.11.2.2.2 As of the Effective Date, it is technically feasible and AT&T Illinois does, in fact exchange, subject to Section 251/252, voice traffic between AT&T Illinois' IP customers and other carriers' customers, using IP network elements that are provided in part by an AT&T Illinois' affiliate. For the purposes of an IP Interconnection Proposal, any AT&T Illinois' affiliate IP network element used to exchange any AT&T Illinois voice IP traffic with any other carrier is deemed to be part of the AT&T Illinois network, subject to all of AT&T Illinois' 251/252 obligations. Accordingly, neither AT&T Illinois nor its affiliate can refuse a Sprint Interconnection Proposal to interconnect to exchange voice traffic at a technically feasible point on any IP network provided by an AT&T Illinois' affiliate, that is used to exchange AT&T Illinois voice traffic with any other carrier, on the ground that such IP network is not part of the AT&T Illinois' network.

Issue 2 (DPL reference I.A(2)): Can Sprint use the Agreement to exchange its third-party wholesale-customer PSTN traffic when such third party wholesale customer has obtained its own NPA-NXXs? (GT&C's Section 3.11.4; Attachment 2 Sections 3.1.1, 3.1.2, 3.1.3)

Q. Have the Parties resolved Issue 2?

A. Yes, and as pointed out in Sprint witness Mr. Felton's Supplemental Verified Statement, resolution of Issue 2 affirmatively protects AT&T from any "Halo" fears.

<u>DPL Section II: Issues Regarding How The Parties Interconnect</u>

Issue 13 (II.A. (4)): Should this Agreement include provisions regarding indirect interconnection?

(a) Should the definition of Interconnection be based on both Part 51 and Part 20 of the FCC's rules?

(b) Should there be a distinction between "Interconnection", C.F.R. Section 51"? (GT&C Section 2.59)

Q. Please summarize the dispute between the Parties with respect to Issue 13.

A. Initially, this dispute included indirect interconnection as indicated by the first issue statement. However, the Parties have resolved the indirect interconnection issue such that indirect interconnection is covered by the Agreement. The dispute now

centers on the inclusion of the Part 20 interconnection reference within the definition of Interconnection. Ms. Pellerin characterizes the dispute as Sprint's request to obtain TELRIC pricing for facilities not used for Interconnection under Section 251(c)(2). Based on Ms. Pellerin's Direct Testimony on page 17 and 18 lines 361-365, AT&T is concerned that Sprint is attempting to "obtain at TELRIC-based rates facilities that are not used for Interconnection as the FCC defined that term for purposes of section 251(c)(2)." Her characterization is inaccurate. As a wireless carrier, Sprint's Interconnection rights include those rights grounded in both Part 20 and Part 51. Accordingly, the definition of Interconnection must include a reference to both.

Q. Is Sprint attempting to obtain TELRIC-based rates for facilities that are not used for interconnection?

A. No. Sprint inclusion of 47 C. F. R. Part 20.3 rules is not an attempt to obtain TELRIC-based rates for facilities that are not used for Interconnection.

Q. On page 18 beginning at line 366, Ms. Pellerin references Section 252(c) and concludes that a Section 251 agreement precludes a reference to Part 20. Do you agree with this conclusion?

A. No. The language cited by Ms. Pellerin is accurate, but I don't agree with her conclusion. While I am not an attorney, I don't believe the language precludes Sprint's desire to include a reference to Part 20. I especially think this is the case

given Ms. Pellerin's presumption that Sprint's motive for including the Part 20 reference is wrong as I stated above.

Q. Why is it appropriate to include an express reference to Part 20 in the "Interconnection" definition to be included in the Agreement?

A. Sprint's response is largely a legal one to be addressed in Sprint's briefs. However, I understand Sprint's position to be that, in the context of resolving CMRS-LEC interconnection matters, the FCC has relied upon both Section 251 and Section 332 of the Act, thereby warranting recognition of both the Part 20 and 51 Rules. A prime example of this is the MAP decision that is discussed in Mr. Farrar's supplemental testimony, and a copy of which is attached to that testimony as RGF-6.1. That decision clearly demonstrates that the FCC has conclusively rejected the AT&T position in this case (and also advocated by Dr. Liu) that AT&T is not responsible for any cost of Interconnection Facilities on the Sprint side of a POI. Paragraph 28 and 30 of the MAP decision make clear that the FCC applied the law as required by both Section 251 and Section 332 of the Act to resolve the matter. As with other tortured construction arguments made by AT&T in this docket, adoption of an AT&T position that Interconnection under an arbitrated agreement can "only" (or "solely" or "exclusively") encompass a CMRS carrier's rights under Section 251 and Part 51 – and do not include any CMRS carrier rights under Section 332 and Part 20 – can lead to an absurd argument that the MAP case is not applicable because it was not rendered in the context of a 251 proceeding. The end result is that there simply is no legitimate basis for AT&T to insist upon a definition of "Interconnection" that

only AT&T knows how AT&T may interpret such definition to further restrict any of Sprint's interconnection rights. Accordingly, AT&T's position should be rejected and the Commission should include references to both Part 51 and Part 20 in the definition of "Interconnection."

Q. On page 19 beginning on line 397, Ms. Pellerin points out the disagreement regarding the term "Interconnection" and "interconnection." Does her concern also relate to the TELRIC-based pricing issue addressed elsewhere?

A. It appears to. As I stated previously, Sprint's position with respect to Issue 13 is not one of acquiring TELRIC-based pricing of facilities. As I stated in my Direct Testimony, use of the same word, sometimes as defined and sometimes as undefined, creates ambiguity,

Section VI.A Billing and Payment Issues - Deposits

Q. Are there any overarching concerns related to the billing and payment issues?

A. Yes.

Q. On Page 5, Line 122 of AT&T witness Greenlaw's Direct Testimony, he states "When AT&T Illinois provides products and services to Sprint pursuant to the ICA, it is providing those products and services on credit, because AT&T Illinois does not bill Sprint until after the products and services are provided." What is your response to Mr. Greenlaw's statement?

A. It is apparent from reading Mr. Greenlaw's statement that AT&T views the relationship between AT&T and Sprint under the interconnection agreement subject to this arbitration proceeding as a "buyer-seller" relationship.

Q. Is AT&T's portrayal of the relationship of the Parties to the agreement accurate?

A. Absolutely not. The relationship between AT&T and Sprint, as it relates to the interconnection agreement that is the subject of this arbitration proceeding, is that of co-carriers who are attempting to reach an agreement on the terms and conditions surrounding the mutual exchange of traffic for the benefit of both Parties.

Q. Is AT&T's misunderstanding of the relationship of the Parties the driving force behind the billing and payment issues being arbitrated in this proceeding?

A. Yes. AT&T's belief that they somehow should have superior rights because they view the agreement as that of a "buyer-seller" relationship is definitely the source of most of the billing and payment issues being arbitrated. 47 CFR §51.5 defines Interconnection as the linking of two networks for the mutual exchange of traffic. Nowhere does it describe the "buyer-seller" relationship that Mr. Greenlaw and AT&T attempts to characterize.

Issue 50 (VI.A (1)): Should the definition of "Cash Deposit and "Letter of Credit" be Party neutral? (GT&C Sections 2.20, 2.68)

AT&T Witness Greenlaw

Q. Does witness Greenlaw's Direct Testimony directly address Issue 50?

A. Not really.

Q. Please explain.

A. Starting at Page 2, Line 53 of his Direct Testimony, Mr. Greenlaw merely describes the issues and indicates that the Parties do not agree on the contract language. Then on Page 3, Line 68, Mr. Greenlaw includes AT&T's language for section 2.68 of the General Terms and Conditions, and highlights the disputed language. Finally, on Page 4, Line 81, Mr. Greenlaw explains that Sprint did not address the AT&T language in GTCs 2.68 that speaks to use of the AT&T Illinois Letter of Credit Form, and opines that if Sprint does not address the Letter of Credit Form language the Commission should rule in AT&T's favor.

Q. Does Sprint take issue with AT&T's language in Section 2.68 of the GTCs that pertains to the use of the AT&T Letter of Credit Form?

A. Yes. While AT&T includes proposed language regarding a 'Letter of Credit Form' in section 2.68 of the GTCs, to my knowledge, such a form has never been shared with Sprint. That aside, it is Sprint's position that the Billed Party should have the choice as to the form utilized if a Letter of Credit is required under the terms of the Agreement.

Staff Witness Omoniyi:

Q. On Page 5, Line 100 of Staff witness Omoniyi's Direct Testimony, he states "….each [P]arty should be entitled to the same reasonable protections provided by a deposit requirement". Do you agree with Mr. Omoniyi's conclusion?

A. Yes I do. Both Parties to the Agreement should be entitled to the same protections in the deposit provisions of the contract. The Commission should not allow AT&T to rely on its "heavy-handed" language and tactics to gain preferential treatment under the Agreement.

Q. On Page 6, Lines 113 through 120 of Staff witness Omoniyi's Direct Testimony, he concludes that AT&T's assertion that Sprint has "no possible need for a deposit from AT&T Illinois"[10] is not a valid reason for AT&T to be exempt from the deposit provisions of the Agreement. Do you agree with Mr. Omoniyi conclusion?

A. Yes, I agree with Mr. Omoniyi's conclusion on this topic. Similar to Mr. Omoniyi, Sprint finds it both ironic and hypocritical that AT&T's proposed language allows AT&T to demand a deposit from Sprint (that as AT&T openly admits has not and currently does not pose a credit risk), based on pure speculation that its financial situation may change in the future, while boldly suggesting Sprint will never have the need to demand a deposit of AT&T. The financial status and creditworthiness of all companies, including AT&T, can take a turn for the worse at any time. Thus, Sprint's

[10] Greenlaw Direct Testimony, Page 10.

proposed language stating that both Parties are subject to deposit provisions of the Agreement must be approved by the Commission.

Q. On Page 7, Lines 136 through 139 of Staff witness Omoniyi's Direct Testimony, he concludes that if Sprint's financial condition were to deteriorate, that AT&T should be permitted to request a deposit from Sprint under the terms of the Agreement. Do you agree with Mr. Omoniyi's statement?

A. No, as long as Sprint continues to pay undisputed bills. If Mr. Omoniyi's definition of a "deteriorating financial condition" means Sprint has failed to make payments for undisputed charges to AT&T under the terms of the Agreement, then yes I agree with Mr. Omoniyi. If however Mr. Omoniyi's definition of a "deteriorating financial condition" is based on AT&T's subjective analysis of Sprint's financial situation, then I disagree with Mr. Omoniyi. The Parties to the Agreement should be required to submit a deposit if and only if their past payment history for undisputed charges dictates that such action is required.

Q. On Page 7, Line 149 of Staff witness Omoniyi's Direct Testimony, when addressing AT&T's proposed language that would force Sprint to use AT&T's Letter of Credit Form, he states "While Sprint does not directly address this, it does seem to address a mutually exclusive proposal for the definition of the term 'Letter of Credit'." Please comment on Mr. Omoniyi's statement.

A. First, Sprint admits that it has not directly addressed AT&T's proposed language which would force Sprint to utilize AT&T's Letter of Credit Form. The reason for that

is quite simple: To my knowledge, AT&T has never shared a Letter of Credit Form with Sprint during the course of the negotiations. Sprint cannot comment on a document that either does not exist, or does exist but has never been shared with Sprint. Second, Mr. Omoniyi is correct when he says Sprint suggests a mutually exclusive proposal of the term "Letter of Credit". As long as each Party's form properly addresses the situation, the Party producing the "Letter of Credit" should have the latitude to control the format of the document. Sprint's position on this matter appears to be in line with Mr. Omoniyi's, as he states at Page 7, Line 152: "More specifically, I believe Sprint should not be required to use AT&T Illinois' Letter of Credit form, and instead should be able to use any commercially reasonable Letter of Credit form it chooses".

Q. Do you agree with Mr. Omoniyi's recommendation with respect to Issue 50?

A. Yes I agree with Mr. Omoniyi's recommendation that the Commission should adopt Sprint's definitions of "Cash Deposit" and "Letter of Credit" for the Agreement.

Issue 51 (VI.A (2)): What assurance of payment language should be included in the Agreement? (GT&C Sprint Sections 9.1 through 9.7 AT&T Sections 9.0 through 9.14)

AT&T Witness Greenlaw

Q. Do you believe that Mr. Greenlaw inappropriately characterizes the Agreement as a "buyer-seller" agreement on Page 5, Line 122 of his Written Verified Statement?

A. Yes. As discussed above, AT&T attempts to portray the Agreement as a "buyer-seller" agreement and claim that under such an agreement AT&T should have superior rights. As previously discussed, the Agreement is an interconnection agreement. 47 CFR §51.5 defines Interconnection as the linking of two networks for the mutual exchange of traffic. Therefore, the Parties to the Agreement are co-carriers creating a contract to exchange traffic, which is far different from an agreement to buy and sell services as Mr. Greenlaw suggests.

Q. On Page 5, Line 131 of his Direct Testimony, does Mr. Greenlaw indicate that Sprint has not been a major credit risk?

A. Yes.

Q. Then why does AT&T wish to demand deposits from Sprint?

A. Mr. Greenlaw cites two reasons. First, on Page 5, Line 136, he identifies the first reason as the ability of other carriers to adopt the Agreement under Section 252(i) of the 1996 Act. Second, on Page 5, Line 139 he states that while Sprint has not been a credit risk in the past, Sprint's financial condition and creditworthiness could change in the future.

Q. Please comment on Mr. Greenlaw's first reason for AT&T demanding deposits from Sprint?

A. Mr. Greenlaw is correct that other carries may adopt interconnection agreements in their entirety as allowed under Section 252(i) of the Act. However, arbitration proceedings such as this one are designed to settle issues identified in the negotiation process between two parties attempting to complete and finalize an interconnection agreement, and those two parties only. In arbitrating this matter, the Commission cannot force the agreement to go to the least common denominator, i.e., the industry level. The Commission must make its rulings as they pertain to the Parties to the arbitration proceeding, and not the industry as whole

The Commission standards for approval and rejection of interconnection agreements are clearly set forth under the Act in Section 252(e)(2). In particular Section 252(e)(2)(B) states:

> (B) An agreement (or portion thereof) adopted by arbitration under section (b) if it finds that the agreement does not meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251, or the standards set forth in subsection (d) of this section.

Nowhere in Section 252(e)(2) does it say a state commission can reject an interconnection agreement adopted by negotiation or arbitration on the grounds that another carrier might subsequently adopt the agreement under the provisions of Section 252(i) of the Act.

Q. Please comment on Mr. Greenlaw's second reason for AT&T demanding deposits from Sprint?

A. Sprint agrees with Mr. Greenlaw's statement that Sprint has not been a credit risk to AT&T in the past. Sprint's payment record with AT&T speaks for itself. Sprint has paid AT&T the undisputed billed amounts in a timely fashion over the course of the current ICA under which the Parties operated. As spelled out in Sprint's language pertaining to deposits, the payment history between the Parties should be the driving force behind the request for a deposit, and not speculation about a Party's future financial condition.

Q. But didn't AT&T's response to Staff Data Request AO 1.01 indicate that Sprint financial statements reported net losses in recent quarters, and an increase in the net loss reported 3Q 2012 versus 3Q 2011?

A. Sprint does not dispute the fact that it has reported net losses in recent quarters, and an increase in the net loss reported 3Q 2012 versus 3Q 2011. However, picking and choosing bits of information from a Party's financial statements does not in itself justify the need for a deposit – this is the "subjectivity" problem. As stated above, Sprint believes the deposit requirement should be based upon the Billed Party's history of paying its bills. Sprint has a good record of payment history under the terms of the existing ICA.

Q. On Page 7, Line 177 of his Direct Testimony, does Mr. Greenlaw point to various sections of Title 83 of the Illinois Administrative Code to support AT&T's proposed unilateral deposit language?

A. As previously discussed, AT&T time and again attempts to portray the Agreement as a "buyer-seller" relationship and not a co-carrier relationship. Mr. Greenlaw's reference to the Illinois Administrative Code ("IAC") is nothing more than another example of this behavior, as the sections of the IAC to which Mr. Greenlaw refers address retail customer deposits and not co-carrier relationships.

Q. Do you agree with Mr. Greenlaw's statement on Page 7, Line 184, which reads: "There is no reason that the deposit provisions in a wholesale interconnection agreement should exactly track the rule that applies to retail customers."?

A. Yes I do. The rules in place for retail customer relationships and co-carrier relationships should be independent of each other as the nature of the retail customer relationship is far different from a co-carrier relationship. However, any deposit language cannot be unilateral and apply only to Sprint, as the Agreement between Sprint and AT&T is between co-carriers attempting to contract for the mutual exchange of traffic. Both Parties to the Agreement perform a service for the other, bill each other for those services, and therefore should be treated equally under the terms of the Agreement.

Q. On Page 8, Line 193 of his Direct Testimony, Mr. Greenlaw states that: "From 2008 through third quarter 2012, AT&T ILECs had to write off more than $390

million in uncollectible losses to CLECs and CMRS providers". What is your reaction to this statement?

A. While it may be true that AT&T did experience uncollectible losses of $390 over nearly a five year period – 2008 through 2012 – that number should be considered in perspective. According to AT&T's financial statements[11], during the five year period referenced by Mr. Greenlaw, AT&T's Wireline segment amassed approximately $291billion in operating revenues – which are reported net of write-offs. Thus, the $390 million dollar write-off claimed by AT&T amounts to only approximately one-tenth of one percent (0.1%) of its Wireline segment operating revenues. If AT&T's conservatively estimated write-offs for all Wireline segment services at 2% of operating revenue, the $390 million amount would represent only 5% (0.1% / 2%), of the total write-off amount.

Unfortunately, all companies encounter uncollectible accounts in the normal course of business. While AT&T would like to protect itself against such losses (as would any company), the Commission cannot allow AT&T to encumber companies like Sprint that pay their bill in a timely fashion with large deposits.

Q. On Page 15, Line 374 of his Direct Testimony, Mr. Greenlaw begins addressing the circumstances under which AT&T may request a deposit. What is the first

[11] Documents viewed included AT&T's Annual report for 2011 (which provides historic data for the years 2008 through 2010 inclusive), AT&T's Annual Report for 2010 (which included data for 2008), and AT&T's Third Quarter 2012 Earnings Announcement.

circumstance that Mr. Greenlaw lists as a valid reason for AT&T to request a deposit under the Agreement?

A. The first reason is if Sprint's credit worthiness or financial health is impaired.

Q. Does Sprint believe that changes to its creditworthiness or financial condition are valid reasons to request a deposit?

A. Generally speaking, no. Sprint believes such situations should only lead to the need for a deposit, if *and only if*, such events result in a Party to the Agreement failing to pay its undisputed bills on a timely basis. As previously stated, Sprint firmly believes that a deposit requirement, if any, should be driven by a Party's payment history, rather than speculation as to the Party's ability to pay future bills. That is exactly why the first criteria in Sprint's proposed language for Section 9.2 of the General Terms and Conditions - the Party has not paid undisputed charges within 15 business days of the original Bill Due Date(s) – is the appropriate trigger for determining the need and amount of a deposit .

Q. In addition to the fact that AT&T's first listed circumstance for requesting a deposit allows a Party to seek a deposit in the absence of past due undisputed charges, what issues do you have with AT&T's proposed language for Section 9.2.1 of the GTCs which addresses this circumstance?

A. AT&T's proposed language for Section 9.2.1 of the GTCs allows AT&T to be the sole "judge and jury" in the determination of whether changes to a Billed Party's credit worthiness or a Billed Party's financial condition constitute the need for a deposit,

based on a yet to be defined AT&T analysis. Specifically, AT&T's proposed language reads:

> **If based on AT&T Illinois' analysis of the AT&T Credit Profile and other relevant information regarding Sprint's credit and financial condition**….

This proposed language "based on AT&T Illinois' analysis … and other relevant information" leaves the door wide open for AT&T to subjectively determine if and when a deposit is required, with absolutely no input or from Sprint or any other source. If AT&T is allowed to unilaterally determine that Sprint's financial situation requires a deposit, there is obviously potential for abuse of the deposit process on AT&T's part. The Commission should not allow this to occur.

Q. What is the second circumstance that Mr. Greenlaw lists as valid reasons to require a deposit?

A. The second reason is if Sprint fails to pay its bills.

Q. Does Sprint agree that failure to pay bills is a valid reason to request a deposit?

A. Yes, provided the unpaid bill is a 1) past due, 2) undisputed, 3) material amount, and 4) for which Sprint has received a written notice that Sprint has failed to pay such undisputed material amounts. Under no circumstances should a deposit ever be triggered by disputed amounts, immaterial amounts or simply the fact that a given non-payment may have resulted from mere human error (thus, the notice requirement).

Q. What is the third circumstance that Mr. Greenlaw lists as valid reasons to require a deposit?

A. The third reason cited by Mr. Greenlaw is that Sprint cannot pay its debts when they become due?

Q. Does Sprint agree that inability to pay debts when they become due is a valid reason to request a deposit?

A. As previously indicated, only if the debts Mr. Greenlaw refers to are payments for undisputed, material charges due from Sprint to AT&T under this Agreement.

Q. What is the fourth circumstance that Mr. Greenlaw lists as valid reasons to require a deposit?

A. The fourth circumstance cited is an increase in the amount of purchases by Sprint under this Agreement.

Q. Does Sprint agree that an increase in billing for network facilities or intercarrier compensation under this Agreement is a valid reason to request a deposit?

A. Absolutely not. If the Billing Party is receiving increased payments from a co-carrier for bills rendered for network facilities and intercarrier compensation on a timely basis, I would think the Billing Party would be thrilled to see an increase in the billed, and paid, amounts.

Q. On Page 15, Line 387 of his Direct Testimony, Mr. Greenlaw states; "Significantly, AT&T Illinois' language does not *require* a deposit in any of these circumstances. Instead, it provides only that AT&T *may* request a deposit." Please comment on this statement.

A. While AT&T finds it admirable that its proposed language does not require a deposit in the circumstances described above, Mr. Greenlaw misses the more important concept that AT&T's proposed language grants AT&T the subjective ability to determine if and when a deposits are requested and Sprint is at its mercy – without Sprint having any right to question AT&T's determination. Sprint's proposed language on the other hand clearly spells out the parameters for when a deposit is required which removes all subjectivity from the process – and also grants the Billed Party an express right to invoke dispute resolution regarding a deposit determination, which AT&T refuses to accept. As a result, if AT&T's language is accepted by the Commission, that would only serve to open the door for potential AT&T abuse of the deposit process under the Agreement as, AT&T would have sole discretion as to if and when the deposit requirements apply without, under AT&T's view, a Sprint right to challenge AT&T's determination.

Q. On Page 16, Line 415 of his Direct Testimony, Mr. Greenlaw makes the claim that Sprint's proposal is not reasonable. Do you agree?

A. No. Sprint's proposed language in Sections 9.2 through 9.5 of the General Terms and Conditions clearly defines the circumstances under which deposits may be requested, while at the same time preventing both the Billing Party and Billed Party from being

disadvantaged. By requiring the Billed Party to be subject to the deposit requirements if undisputed charges are not paid within 15 business days of the Bill Due Date, and after 10 additional days from receiving written notification from the Billing Party, the Billed Party is granted adequate protection under Sprint's proposed language. On the other hand, the Billed Party is protected from disadvantage under Sprint's plan as the past due amount for undisputed charges must exceed $100,000 for the deposit provision to apply, and the amount of the deposit is limited to the lesser of one month's billing under the Agreement, or $50,000. To the extent any adjustment may be necessary to Sprint's language, it would be reasonable to limit the amount of any deposit to the greater of one month's billing under the Agreement or the undisputed past due amount in issue.

Q. On Page 17, Line 437 of his Direct Testimony, Mr. Greenlaw discusses AT&T's proposal to cap deposit amounts at three months anticipated billings. Do you agree with his rationale?

A. No I do not.

Q. Can you please state your reasons for disagreeing with the AT&T deposit cap proposal?

A. First, Mr. Greenlaw's calculation of the three month period is flawed. He begins with the premise that first month included in the three month cap is the period thirty days from bill issue date to the Bill Due Date. The Billed Party cannot be penalized for the period of time prior to the Bill Due Date, as the Billing Party cannot expect payment to

be made on the day the bill is issued. Thus, this period of time should be excluded from the cap period.

Second, Mr. Greenlaw's deposit cap calculation includes the 60 day period of time it takes AT&T to issue a Discontinuance Notice, and "additional time passed without the non-paying carrier curing its default". While I do not dispute that a period of time will pass from the Bill Due Date until a Discontinuance Notice is served on the Billed Party, and that a period of time will elapse prior to curing of a default, sixty (60) days is an excessive period of time to assume.

AT&T admits that Sprint does not have a late payment history or pose a credit risk to AT&T (Page 5, Line 130). Yet, at the same time AT&T expects a deposit equal to three months billing under the agreement, or 25% of AT&T's annual billings to Sprint, if a subjective AT&T analysis of Sprint suggests Sprint is a risk – even if Sprint has never failed to pay any material undisputed amounts in an untimely fashion. Under such circumstances any deposit, much less a 25% deposit of estimated annual billings is quite burdensome.

Q. What is your reaction to Mr. Greenlaw's proclamation on Page 18, Line 456 of his Direct Testimony that Sprint's deposit limit is unreasonable?

A. As previously discussed, AT&T openly admits that it does not view Sprint as a credit risk. In addition, Sprint has rarely, if ever, rendered payment for undisputed charges after the Bill Due Date. Therefore, setting the deposit limit at the Sprint proposed

level of the lesser of one month's billing under Agreement, or $50,000 appears to be the most prudent approach for the Commission. However, as previously indicated, to the extent any adjustment may be necessary to Sprint's language, it would be reasonable to limit the amount of any deposit to the greater of one month's billing under the Agreement or the undisputed past due amount in issue.

Q. On Page 20, Line 499 of his Direct Testimony, Mr. Greenlaw states that Sprint's proposal to have a deposit returned to a Billed Party if the Billed Party that made the deposit establishes 12 months of good payment history with the Billing Party (Sprint's proposed GTC's Section 9.7) is inappropriately simplistic. How do you respond to this statement?

A. There is no basis for AT&T to hold a competitor's money when the reason for holding such money in the first place no longer exists. The purpose of establishing a deposit provision is to provide a degree of future protection to the Billing Party that the Billed Party will render payment in a timely fashion in the future in light of the Billed Party's failure to do so up to the point the deposit is established. If a deposit is triggered and paid, and the Billing Party has established 12 consecutive months of a clean payment history, then the Billed Party has successfully proven that it is no longer putting the Billing Party at risk. In addition, unlike AT&T's proposal that heavily favors the Billing Party, Sprint's proposal brings clear and concise closure to the period of time that the Billing Party may maintain a deposit. AT&T's proposal once again provides far too much latitude to the Billing Party, and allows for potential abuse of the deposit provisions of the Agreement.

Q. On Page 20, Line 504 of his Direct Testimony Mr. Greenlaw addresses potential abuse of the deposit provisions by AT&T by essentially stating, AT&T doesn't abuse its power. How do you respond to this statement by Mr. Greenlaw?.

A. While Mr. Greenlaw states that AT&T would not abuse a deposit return provision of the Agreement, the only support that he offers is "trust us". The Commission should never allow the ILEC that ultimately controls the connections to the PSTN so much latitude that a competitor must rely on a hope and a prayer that abuse by the ILEC will not occur. Reasonable, objective standards governing the return of a deposit are appropriate and should be required by the Commission.

Q. On Page 20, Line 515 of his Direct Testimony what reason does Mr. Greenlaw cite for rejecting Sprint's proposal to return deposits after twelve months of good payment history.

A. Mr. Greenlaw argues that a carrier experiencing financial difficulties could short pay-pay or default on obligations to other companies in an effort to meet the criteria for the return of a deposit, then, once the criteria are met, stop paying AT&T. Once again Mr. Greenlaw relies on speculation rather than relying on Sprint's payment record.

Q. On Page 21, Line 536 of his Direct Testimony Mr. Greenlaw states his belief that Sprint opposes the provisions related to letters of credit and surety bonds. Please comment on Mr. Greenlaw's statement.

A. Sprint does not generally object to the use of letters of credit or surety bonds as an alternative to a cash deposit. However, Sprint does object to using an AT&T-required version of a letter of credit and surety bond forms in lieu of utilizing the forms Sprint and the financial institutions backing those alternatives prefer. As discussed under Issue 50 above and Issue 60, below, AT&T's proposed language regarding the required use of such forms is unacceptable.

Q. On Page 22, Line 556 of his Direct Testimony Mr. Greenlaw addresses the need for a deposit at the Effective Date of the Agreement. What is AT&T's position on allowing for a deposit on the Effective Date of the Agreement?

A. Contrary to Sprint's proposed language that does not permit a deposit request by either Party on the Effective Date of the Agreement, AT&T's position is that AT&T may request a deposit from Sprint on the Effective Date.

Q. Has AT&T admitted that it has not previously requested a deposit from Sprint?

A. Yes. On Page 22, Line 569 Mr. Greenlaw makes that admission. In fact, he takes things one step further by saying that AT&T does not anticipate asking for a deposit from Sprint on the Effective Date of the Agreement.

Q. Then why do you suppose AT&T is so insistent about including such language in the Agreement?

A. AT&T is proposing such language for either of the following reasons. First, such language allows AT&T to claim based on its own subjective analysis that Sprint's

financial situation at the Effective Date warrants the payment of a deposit. Second, and presumably more likely, AT&T cites fear of adoption as the other reason for opposing Sprint's proposed language in Section 9.1 of the General Terms and Conditions of the Agreement (Page 23, Line 595).

Q. Please comment on Mr. Greenlaw's rationale.

A. Regarding the first reason cited for allowing deposit requests on the Effective Date, Mr. Greenlaw is basically saying that in spite of the fact that Sprint has established several very good years of payment history with AT&T under the current interconnection agreement, AT&T seeks to maintain the ability to arbitrarily request a deposit at the inception of the Agreement. This of course opens the door to abuse on AT&T's part as discussed above.

As for reason number two, as previously discussed above, AT&T is asking Sprint to negotiate a contract for the entire industry out of fear of an adoption by some as-yet unknown requesting carrier, instead of negotiating directly with Sprint. As AT&T openly admits (Page 24, Line 610), if Sprint's language were adopted, AT&T could still make the argument that an adopting carrier is not entitled to the benefit of that provision as the adopting carrier has no history with AT&T. AT&T knows how to craft language that addresses how to treat given issues in the case of a subsequent adoption of the Agreement by another carrier and, for whatever reason, has not offered such language. If it wants to offer such language, Sprint is certainly open to considering it.

Staff Witness Omoniyi

Q. On page 12, line 265 Mr. Omoniyi states that he does not believe Sprint's language regarding the amount of deposit that can be requested is reasonable. How do you respond to this statement by Mr. Omoniyi?

A. As I have previously discussed, to the extent any adjustment may be necessary to Sprint's language, it would be reasonable to limit the amount of any deposit to the greater of one month's billing under the Agreement or the undisputed past due amount in issue. This adjustment should resolve Mr. Omoniyi's stated concern that Sprint's proposal does not offer adequate protection.

Q. Do you agree with Mr. Omoniyi's recommendation, on Page 13, Line 284 of his Direct Testimony, where he indicates that deposits should be based on whether or not a Party is promptly paying its bills, rather than speculation on the Party's ability to pay?

A. Yes I do. Sprint firmly believes that if a Party has consistently paid it bills in a timely fashion, there is no need to invoke the deposit provisions of the Agreement.

Q. Do you agree with Mr. Omoniyi's recommendation, on Page 13, Line 289 of his Direct Testimony, urging the Commission to adopt a requirement allowing the Billing Party to request a deposit if the Billed Party has established fewer than 12 consecutive months of timely payment to the Billing Party?

A. Not necessarily. I agree with Mr. Omoniyi's belief that a deposit should be based on the Billed Party's payment history. However, it should be a payment history that only becomes relevant after the Billed Party has failed to timely pay undisputed material amounts. Stated another way, if the Commission accepts AT&T's view that AT&T could ask for a deposit as of the Effective Date, such language cannot be read together with any 12-month payment history requirement to support an AT&T deposit demand on the Effective Date on a premise *Sprint will not have a 12-month history under the new Agreement.*

Q. Do you agree with Mr. Omoniyi's recommendation, on Page 13, Line 293 of his Direct Testimony, urging the Commission to adopt Sprint's proposed language on the return of a deposit amount?

A. Absolutely. Sprint's proposed language regarding the return of deposit amounts is quite reasonable, and as Mr. Omoniyi indicates (Page 13. Line 298) comports with previous Commission findings. Thus, Sprint's language regarding the return of deposits should be adopted by the Commission.

Q. Do you agree with Mr. Omoniyi's opinion on Page 14, Line 304 of his Direct Testimony, that AT&T's proposed language is unreasonable?

A. Yes. Mr. Omoniyi is correct that the deposit provisions should apply bi-laterally, and should be based upon payment history under the Agreement.

Q. Do you agree with Mr. Omoniyi's opinion on Page 14, Line 314 of his Direct Testimony, that three months' anticipated billing is a fair amount if a deposit is required under the deposit provisions of the Agreement?

A. No I do not. As discussed above, requiring a Party to deposit 25% of annual billings, is on its face excessive and creates an unnecessary burden for the Billed Party required to pay a deposit. As also previously discussed, to the extent any adjustment may be necessary to Sprint's language, it would be reasonable to limit the amount of any deposit to the greater of one month's billing under the Agreement or the undisputed past due amount in issue.

Q. Do you agree with Mr. Omoniyi's evaluation, beginning on Page 15, Line 337, of AT&T claims of extraordinary write-offs and uncollectable losses associated with interconnection agreements?

A. Yes I do. As noted by Mr. Omoniyi, AT&T's comments are taken out of context, should not be considered when determining a deposit requirement, and are meaningless without providing the proper context and perspective.

Q. Do you agree with Mr. Omoniyi's analysis at Page 16, Line 357 that AT&T's proposed three months' anticipated billed is does not come close to being a competitive weapon?

A. No, I disagree with Mr. Omoniyi's analysis. As previously discussed above, deposit provisions requiring three months estimated billings encumber 25% of the Billed Party's estimated billed amounts. In my opinion that is nothing short of a competitive

weapon, particularly if the undisputed material amount that triggers the deposit is significantly less than 25% of the Billed Party's estimated annual billed amounts.

Q. Do you agree with Mr. Omoniyi's conclusions regarding Mr. Greenlaw's testimony at Page 17?

A. Yes I do. As previously discussed, requests for deposits should be based on payment history and not speculation about the future. In addition, the deposit provisions should apply to both Parties to the Agreement.

Q. Do you agree with Mr. Omoniyi's recommendation at Page 21, Line 474 that either Party to the Agreement may request a deposit on the Effective Date of the Agreement?

A. No I do not. In fact, I believe Mr. Omoniyi's recommendation is inconsistent with other parts of his testimony. On Page 17, Line 377, Mr. Omoniyi promotes adopting deposit provisions that only allow the Billing Party to request a deposit if the Billing Party has not promptly paid its bills for fewer than 12 consecutive months. Under the existing interconnection agreement Sprint has promptly paid its bills for well in excess of 12 months. The Commission cannot ignore Sprint's past payment history just because one interconnection agreement comes to an end, and another becomes effective.

Section VI.B Billing and Payment Issues - Escrow

Issue 52 (VI.B (1)): Is it appropriate to include good faith disputes in the definitions of "Non-Paying Party", or "Unpaid Charges"? (GT&C Sections 2.77, 2.124)

Staff Witness Omoniyi

Q. Do you agree with Mr. Omoniyi's observation at Page 23, Line 522 that AT&T's proposed language related to this issue would "constrain a Billed Party from disputing charges in good faith."?

A. Yes I do. A requirement that good faith disputed amounts be placed into an escrow account is an unreasonable requirement. A Billed Party should only be required to pay legitimate charges at the end of the dispute resolution process. As explained in my Verified Written Statement, adopting AT&T's proposed definitions, which do not include the term "undisputed", would force the Billed Party to place good faith disputed amounts into an escrow fund as a pre-requisite to resolution of a dispute, which the FCC has determined is an unreasonable practice. Therefore, the Commission should adopt Sprint's definitions for "Non-paying Party" and "Unpaid Charges" to avoid granting the Billing Party a distinct competitive advantage.

Q. Do you agree with Mr. Omoniyi's recommendation at Page 25, Line 545 to modify the language in GT&Cs Section 11.3 to read "If a Billed Party desires to

dispute any portion of the bill, the Billed Party must complete the following actions…"?

A. Yes I do. Replacing the term "Non-Paying Party" with the term "Billed Party", and the term "Unpaid Charges" with the word "bill" does not modify the intent of the language, while at the same time would alleviate AT&T's concern that the language included in that section of the Agreement might be inconsistent should Sprint's definitions of "Non-Paying Party" and "Unpaid Charges" be adopted by the Commission.

Issue 53 (VI.B (2)): Should the Billed Party be required to pre-pay good faith disputed amounts into an escrow account pending resolution of the good faith dispute? (GT&C Section 10.8 AT&T Sections 10.8.1 through 10.9.2.5.3, 10.12, 10.12.1, 10.12.2, 10.12.3, 10.12.4,10.13, 11.3.3, 11.3.4, 11.5.2, 12.4.2)

AT&T Witness Greenlaw

Q. On Page 30, Line 789 of his Direct Testimony Mr. Greenlaw indicates that the purpose of AT&T's escrow language is to ensure funds will be available to pay what is owed. Do you agree with Mr. Greenlaw?

A. Regardless of what AT&T's stated purpose may be, as previously indicated the FCC has found that requiring a competitor to pre-pay a dispute is an unreasonable practice. Accordingly, Sprint disagrees with all of AT&T's position and accompanying testimony with respect to including any escrow language in the Agreement.

Staff Witness Omoniyi

Q. Do you agree with Mr. Omoniyi's conclusion beginning on Page 28, Line 629 of his Direct Testimony that the Commission should reject AT&T's proposed language that would require disputed amounts to be placed in an escrow fund pending the resolution of the dispute?

A. Yes I do. As Mr. Omoniyi correctly points out, both the FCC and the Illinois Commerce Commission have set precedent on this matter by ruling that Billing Party cannot demand that disputed amounts be placed in an escrow fund. I further agree with Mr. Omoniyi's belief that requiring the Billed Party to deposit disputed amounts into an escrow fund could deter the Billed Party from disputing erroneous charges, thereby making the escrow requirement an anti-competitive tool.

Q. Do you agree with Mr. Omoniyi's conclusion beginning on Page 29, Line 644 of his Direct Testimony addressing the use of the terms "Non-Paying Party" and "Disputing Party" to refer to the Billing Party that files a dispute over charges billed under the Agreement?

A. Yes, regarding his recommendation to reject AT&T's proposed use of the term "Non-Paying Party" but I disagree with the conclusion when addressing the term "Disputing Party". As discussed at great length above, describing the Billed Party as the "Non-Paying Party" presupposes that the billed amounts are legitimate and actually due to the Billing Party. However, Mr. Omoniyi's recommendation to reject the use of the

term "Disputing Party" is off base. The term "Disputing Party" is in fact included in the proposed language presented by both Parties to this arbitration to describe the Party filing a claim for a disputed billing. Simply referring to the Billed Party filing the dispute as the "Disputing Party," does nothing to change the status of the Billed Party as Mr. Omoniyi suggests at Page 29, Line 650. It merely highlights the fact that the Billed Party has filed a dispute, and does not grant that Party superior rights under the Agreement. Therefore, the Commission should reject Mr. Omoniyi's recommendation not to refer to the Billed Party filing a dispute as the "Disputing Party".

VI.D Billing and Payment Issues - Disconnection for Non-Payment

Issue 57 (VI.D (1)): Under what circumstances may a Party disconnect the other Party for nonpayment, and what terms should govern such disconnection? (GT&C Sections 10.14, 11.1, 11.2, 11.3.2, 11.3.3, 11.3.4 AT&T Sections 11.5 through 11.8.3)

Staff Witness Omoniyi

Q. Do you agree with Mr. Omoniyi's recommendation at Page 32, Line 720 that any disconnection can only be for those services for which Sprint has failed to pay undisputed amounts?

A. Yes. To the extent any disconnection could ever be authorized, it should only be as to those services for which Sprint has failed to pay undisputed amounts.

Q. Do you agree with Mr. Omoniyi's continuing recommendation at Page 32, Line 722 of his Direct Testimony allowing AT&T to disconnect such undisputed, unpaid for service *without prior* Commission approval?

A. No I do not. As previously stated, discontinuance of service should be a measure of last resort, and should only occur subsequent to Commission approval. Allowing the Billing Party to disconnect service without Commission approval very well could lead to some dramatic customer consequences. For example (absent use of the same criteria Sprint previously outlined as a trigger for AT&T to request a deposit, i.e. including a notice and materiality requirement), if Sprint failed to pay a $1,000 billed under the Agreement for interconnection facilities to a major Chicago-metro tandem that served thousands of Sprint and AT&T customers, under Mr. Omoniyi's proposal, AT&T is free to disconnect service over $1,000 in unpaid charges and, in turn, severely impact service to thousands of customers on both Sprint's and AT&T's networks.

Q. Does Mr. Omoniyi's proposal truly eliminate the Commission's involvement from the process of discontinuing service?

A. No it does not. Under Mr. Omoniyi's proposal, AT&T would simultaneously provide Notice of Discontinuance to both Sprint and the Commission. Obviously, the next natural step in the progression will be for Sprint to likely contact AT&T and, at the same time, likely file a formal complaint with the Commission, which means automatic Commission involvement. While Mr. Omoniyi dismisses Sprint's proposal

as unreasonable because AT&T would have to file a formal complaint with the Commission (Page 33, Line 748), his proposal merely shifts the burden of filing the complaint from AT&T to Sprint. Either way, because disconnection of service is such a drastic step, one of the Parties to the Agreement will press for Commission involvement and either approval or disapproval.

Q. On Page 33, Line 739 of his Direct Testimony, Mr. Omoniyi cites the Administrative Law Judge's Proposed Arbitration Decision in Illinois Docket No. 04-0428 (an ICA arbitration between SBC and Level 3) as precedent for the Commission allowing for the disconnection of service without Commission approval. Is Mr. Omoniyi's citation accurate?

A. I do not believe so. As I read it, the Administrative Law Judge's decision states as follows;

> Second, the Commission agrees with SBC and Staff that the term "shall" (rather than "may") should appear in the first sentence of Section 9.2. **The term pertains to whether *grounds* for disconnection has been established, not whether disconnection will actually occur**. Level 3 can dispute whether the threshold circumstances (failure to pay an undisputed charge) has been properly established, but once it has been, it *is* (not "may be") grounds for disconnection. [12] (Emphasis added).

As you can see from the language above, the ALJ's Proposed Decision did not grant SBC the right to disconnect service without Commission approval, but rather proposed that failure to pay in a timely fashion only established grounds for disconnection, but

[12] *Level 3 Communications L.L.C. Petition for Arbitration Pursuant to Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, and the Applicable State Laws for Rates, Terms, and Conditions of Interconnection with Illinois Bell Telephone Company (SBC Illinois),* Administrative Law Judge's Proposed Arbitration Decision, ICC Docket No. 04-0428 (Dec. 23, 2004), p. 20.

"not whether disconnection will actually occur." On its face this would appear to suggest that it is for the Commission to actually decide whether disconnection will actually occur.

VI.E Billing and Payment issues - Billing Disputes

Issue 60 (VI.E (2)): Can a Party require that its form be used for a billing dispute to be valid? (GT&C Sections 10.8, 12.4.1)

AT&T Witness Greenlaw

Q. Beginning on Page 53, Line 1387 of his Direct Testimony Mr. Greenlaw lists the reasons why he believes the Parties should utilize the AT&T dispute form. Can you please briefly summarize his reasons?

A. The first reason listed by Mr. Greenlaw is that in order for disputes to be handled in an efficient manner, it is essential that all carriers utilize the same dispute form and that should be AT&T's form. The second reason listed by Mr. Greenlaw is that the use of AT&T's form leads to operation efficiencies.

Q. Please comment on Mr. Greenlaw's first stated reason for utilizing the AT&T form for Sprint initiated disputes.

A. Mr. Greenlaw's rationale is nothing short of a "heavy-handed" and arrogant approach on AT&T's part. As long as the vital information is provided on a dispute form, the

disputing party has certainly met its duties in claiming a dispute. Just because it's not filed on an AT&T specified document does not make it invalid. Sprint uses the same system to file disputes not only with AT&T but with any other carrier with whom Sprint may lodge a dispute. AT&T has no right to demand that Sprint change its dispute filing system simply to suit AT&T's desires. The Commission should not allow AT&T to utilize its market power to bully other carriers into doing things the "AT&T way" and, even then, at the cost of the non-AT&T carrier.

Q. Please comment on Mr. Greenlaw's second stated reason for utilizing the AT&T form for Sprint initiated disputes.

A. Sprint does not disagree with Mr. Greenlaw that operational efficiencies are a good thing. However, that does not mean such efficiencies only exist pursuant to AT&T's terms. If AT&T wishes to improve any of its perceived operational inefficiencies related to the continuing use of Sprint's billing dispute form, AT&T can either alter its systems and rely on Sprint's form, or in the alternative, be willing to reimburse Sprint to the extent Sprint may be inclined to implement a one-off dispute system for the benefit of AT&T.

Staff Witness Omoniyi

Q. Do you agree with Mr. Omoniyi's recommendation at Page 39, Line 889 to accept Sprint's language with the modification that, regardless of which form is used,

Sprint will provide AT&T Illinois with sufficient information necessary to identify and process a billing dispute?

A. Yes and no. Sprint currently, and always has, provided AT&T with sufficient information to allow AT&T to identify and process a billing dispute. AT&T's only complaint has been that Sprint's information is not transmitted on the AT&T preferred form. So Sprint has no problem with that portion of the recommendation as it already does so. However, if such language is added, the language should read "the Billed Party" (not just Sprint) must provide such information as the Agreement is bi-lateral.

Q. Does this conclude your Supplemental Verified Written Statement?

A. Yes.

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

SPRINTCOM, INC., WIRELESSCO, L.P. THROUGH THEIR AGENT SPRINT SPECTRUM L.P. AND NEXTEL WEST CORP. Petition for Arbitration, Pursuant to Section 252(b) of the Telecommunications Act of 1996, to Establish an Interconnection Agreement With Illinois Bell Telephone Company d/b/a AT&T Illinois	)	Docket No. 12-0550

VERIFICATION

I, James Burt do on oath depose and state that the facts contained in the foregoing document are true and correct to the best of my knowledge and belief.

Jim Burt

SIGNATURE OF PERSON VERIFYING DOCUMENT

SIGNED AND SWORN BEFORE ME ON THIS 12TH DAY OF FEBRUARY, 2013.

Rhamie Glade

NOTARY PUBLIC

RHAMIE GLADE
Notary Public, State of Kansas
My Appointment Expires
9-12-16